

SBA

SOP 00 03 2

Federal Register Documents

Office of Administration

U.S. Small Business Administration



**SMALL BUSINESS ADMINISTRATION
STANDARD OPERATING PROCEDURE**
Headquarters

SUBJECT: Federal Register Documents	S.O.P.		F
	SECTION 00	NO. 03	

INTRODUCTION

1. Purpose. To outline the procedures for preparing and clearing Federal Register documents.
2. Personnel Concerned. All personnel who prepare, clear, or process Federal Register documents.
3. Directives Canceled. SOP 00 03 1.
4. Originator. Office of Administrative Services,
Office of Administration.

AUTHORIZED BY: Thomas A. Dumaresq Assistant Administrator for Administration		EFFECTIVE DA
		PAGE 1

SBA Form 989 (5-90) Ref: SOP 00 23

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Chapter 1

General Overview of Federal Register Documents

1. What Does this SOP Cover?

This standard operating procedure (SOP) covers preparing, clearing, and publishing documents in the Federal Register.

2. What is the Federal Register?

The Federal Register is a daily publication that informs the public about Government activities, functions, policies, and procedures. Notices, proposed rules, and final regulations C also called final rules C are published there to allow citizens to comment on or participate in them before they become final.

3. What Laws and Regulations Govern this SOP?

The legal requirements governing Federal Register documents are in the following laws and regulations: 5 U.S.C. ch. 5; 5 U.S.C. ch. 6; 31 U.S.C.; 44 U.S.C. ch. 15; 44 U.S.C. ch 35; Title 1, Code of Federal Regulations (CFR); 5 CFR Part 1320; E.O. 12866; and E.O. 12612.

4. How is the Federal Register Related to Laws and the Code of Federal Regulations (CFR)?

- a. Federal laws provide the legal basis for agency actions. Those laws are fleshed out by agency regulations.
- b. Each January, the final regulations that have appeared in the Federal Register over the past year are published in the CFR. Arranged into 50 titles by subject and agency, the CFR devotes Title 13 to SBA regulations.
- c. Originating SBA offices are responsible for getting their final regulations into the CFR.

5. **What Documents Must be Published in the Federal Register?**

- a. Documents that affect the public (such as notice of public meetings and disaster loan area declarations);
- b. Documents that must appear there according to 5 U.S.C. Sections 551, 552, and 553 (such as SBA's organization, sources of public information, SBA procedures, and internal management matters that may affect the public); and
- c. Proposed and final rules that will be incorporated into the Code of Federal Regulations (CFR).

Chapter 2

Assignment of Responsibility for Processing and Publishing Federal Register Documents

1. What are the Responsibilities of the Office of Administrative Services (OAS)?

The Office of Administrative Services:

- a. Acts as the liaison between the Office of the Federal Register, the National Archives and Records Administration, and SBA on all matters involving SBA documents published in the Federal Register;
- b. Provides guidance on the Federal Register and the types of documents that must appear there;
- c. Makes sure that each Federal Register document is formatted correctly, corrects formatting problems, or immediately returns the document to the originator for changes;
- d. Reviews Federal Register documents for compliance with the Paperwork Reduction Act (44 U.S.C. ch. 35);
- e. Certifies copies of all Federal Register documents; and
- f. Maintains the Agency's official record of Federal Register documents.

2. What are the Responsibilities of the Office of the General Counsel (OGC)?

The Office of the General Counsel:

- a. Helps originating offices write regulations;
- b. Gets clearance from the Office of Management and Budget on rule-making documents per E.O. 12866; and
- c. Reviews such documents for compliance with legal requirements.

Chapter 3

Preparing Federal Register Documents for Publication

1. How Do I Prepare a Federal Register Document?

- a. The first step is writing and formatting the document (for document formats, see appendices 2, 3, 4, and 5):
 - (1) Use 8.5 by 11-inch plain bond paper;
 - (2) Double-space, one side only; and
 - (3) Set margins on the top, bottom, and right side at 1 inch. Set the margin on the left side at 1.5 inches.
- b. If it is a proposed or final rule, prepare an SBA Form 606, "Correspondence Digest or Memorandum" and attach it to your document. Take the original Form 606 and document to the Office of Executive Secretariat for appropriate clearances (see SOP 00 21). For a sample SBA Form 606, see appendix 6.
- c. Deliver to the Office of Administrative Services (OAS):
 - (1) The original document and five copies;
 - (2) A computer disk containing the document in electronic format; and
 - (3) A memo stating that the original and disk are exactly alike.

2. What are the Clearance Procedures for a Federal Register Document?

- a. A General Notice must only be signed by the Management Board member responsible for the program area publishing the Notice, and any other office affected by the Notice.
- b. A proposed or final rule must be cleared using the SBA 606 process described in paragraph 3-1.
- c. See appendix 7.

3. **What are the Preamble Requirements?**

Start each regulation, proposed or final, with a preamble in the format prescribed in 1 CFR 18.12. The preamble explains the intent behind the regulatory text, the "who, what, where, when, and why." Use the captions below:

- a. AGENCY. Name our agency here.
- b. ACTION. Identify the regulation as proposed or final.
- c. SUMMARY. Briefly describe the subject of, and reason for, the action.
- d. EFFECTIVE DATE. Give the date on which the regulation becomes final. Every final regulation must have an effective date.
- e. DATES. The time line of the document. Provides the "when" of a regulation.
- f. ADDRESSES. Include any address that a reader needs for participating in the rule-making process.
- g. FOR FURTHER INFORMATION CONTACT. Name a contact person and include a phone number.
- h. SUPPLEMENTARY INFORMATION. Include the history of the regulationCits background and details that explain the basis and purpose of a final regulation.

4. **What Does OAS Do with the Federal Register Documents?**

The Certifying Officer in OAS does the following:

- a. Certifies that the document:
 - (1) Is in the correct format;
 - (2) Has been cleared by the appropriate officials; and
 - (3) Has been signed by an authorized official.

- b. Stamps copies of the document with the following stamps:
 - (1) The "BILLING CODE" on the original and two copies in the upper right hand corner;
 - (2) The "Certified to be a true copy of the original" on all 5 copies in the lower right hand corner; and
 - (3) The "This document was forwarded to the Office of Federal Register for publication on____" in the upper right hand corner of the three copies that do not have the billing code on them.
- c. Sends copies to the following places:
 - (1) The original document and the two copies with the billing code stamp to the Office of the Federal Register;
 - (2) One of the remaining copies to the Office of Congressional and Legislative Affairs;
 - (3) One of the remaining copies to the originating office; and
 - (4) One of the remaining copies for the OAS files.
- d. Sends the original, two certified copies, and the disk to the Office of the Federal Register for publication.

5. What Does the Office of the Federal Register Do with the Documents?

The Office of Federal Register reviews every document for style and grammar, and then publishes each one in the appropriate section of the Federal Register.

6. How Does the Office of the Federal Register Schedule the Publication of Documents?

The Office of the Federal Register publishes most documents within 3 working days of receipt. It accepts documents Monday through Friday between 8:45 a.m. and 5:15 p.m. EST. It treats documents that arrive after 2:00 p.m. as received on the next business day. Some other practices:

- a. When the Office of the Federal Register receives a document, it files it for public inspection and copying on the workday before publication. This provides public notice of the document before publication.
- b. Publication may be slowed by such complications as illegible copy, unusual tabulations, mathematical formulas, illustrations, or large size (over 100 pages).
- c. Accelerated publication is available for documents on preventing, alleviating, controlling, or relieving emergencies.
 - (1) OAS coordinates any request for emergency publication. The request consists of a letter briefly describing the emergency and the benefits from immediate publication in the Federal Register. It is signed by the same person who signed the Federal Register document: the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, an Associate Deputy Administrator, or one of their designees.
 - (2) If emergency publication is possible and the Director, Office of the Federal Register, agrees with the need, he or she puts the document on the emergency schedule and tells OAS.

7. **How Do I Correct Published Errors in the Federal Register?**

After a document appears in the Federal Register, the program office reviews it promptly for errors and reports any to OAS.

- a. If SBA made the error, SBA issues a correction document signed by the Administrator. See sample, appendix 5.
- b. If the Office of the Federal Register made the error, it prepares and publishes a correction document.

8. **How Do I Have Federal Register Documents Duplicated?**

- a. At the time of document clearance, send an SBA Form 789, "Printing Requisition," to OAS. Include an appropriation code and budget approval.

- b. Specify the number and kind of copies (example: 1,000 overruns and 2 sets of photo prints):
 - (1) Overruns. These are copies of an entire Federal Register issue or some part of it.
 - (2) Photo prints (or repros). These are good clear copies of typeset material on high-contrast paper for printing on an offset press. Photo prints allow an agency to reproduce high-quality copies in its own plant or through its GPO contractors.
- c. OAS arranges for the requested extra copies. A request for overruns or photo prints must reach GPO by noon on the day before publication in the Federal Register.
- d. For in-house duplication of Federal Register documents, contact OAS.

9. **What is Available by Subscription and On-Line?**

The Federal Register and the Code of Federal Regulations are available in paper, microfiche, or electronically.

- a. Send requests for Federal Register and CFR subscriptions or microfiche to OAS. OAS keeps the distribution list for these publications.
- b. Legal personnel in Headquarters and field offices can access the Federal Register and CFR through the Westlaw on-line system. This system allows users to search published regulations, proposed and final. Headquarters legal personnel access the system by contacting the Headquarters law library. Field office legal personnel may access the system via their personal computers.
- c. You may also access these documents electronically through GPO Access on the Internet. Contact OAS for information on this system.

Chapter 4

The Code of Federal Regulations

1. **What Federal Register Documents Must be Incorporated into the Code of Federal Regulations (CFR)?**

All final rules published in the Federal Register must be incorporated into the Code of Federal Regulations.

2. **When Must Federal Register Documents be Incorporated into the CFR?**

a. Regulations. Keep them current as follows.

- (1) Throughout the year, update regulations as changes occur in policies and procedures.
- (2) Once a year, look for outdated provisions in everything you are responsible for. Tell OAS what needs updating and when it can expect your amendments for forwarding to the Federal Register.
- (3) For an amendment to appear in next year=s CFR, it must first appear in the Federal Register no later than December 31. The CFR comes out each January.

b. Notices. Federal Register Notices are not incorporated into the CFR; However, some must be published periodically in the Federal Register. These Notices must be kept current. An example would be the Administrator's Line of Succession Notice.

Appendix 1**Index to forms and reports**

Form	Title	Paragraph
SBA Form 606	Correspondence Digest or Memorandum	3-1, 3-2
SBA Form 789	Printing Requisition	3-8

Appendix 2

Sample Proposed Rule (paragraph 3-1)

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

Loans to State and Local Development Companies

Computer Generated Facsimiles of SBA Forms

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize qualified development companies to use computer generated facsimile exact copies of SBA application and closing forms in submitting loan applications and closing documents. This rule is being proposed in order to ease administration of the development company program.

DATES: Comments must be submitted on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Comments should be sent to Jane Doe, Acting Director, Office of Rural Affairs & Economic Developments, Small Business Administration, 409 Third Street SW., Suite 8300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jane Doe, (202) 205-0000.

SUPPLEMENTARY INFORMATION: For many years, SBA has required Certified Development Companies to use forms provided by SBA in the development company loan program. With Advances in technology, forms may be reproduced as mirror image facsimiles by computers. Such reproductions may be in the best interests of the development company loan program.

Under this proposed rule, Certified Development Companies would be authorized to use SBA application and closing forms which have been computer generated by the certified development companies, attorney retained by such companies, or by third parties with whom they have contracted. Because SBA in the past has withheld permission to computerize certain identified SBA forms, the proposed new section 108.504-1 would specifically include the following forms in the general authority to utilize computer generated facsimile copies: SBA Forms 1248 (Authorization and Debenture Guaranty), 1505 (Note), 1504 (Debenture), 1506 (Servicing Agent Agreement), 1429 (Use of Proceeds), 148 (Guaranty), 928 (Mortgage), 930 (Deed of Trust), 1059 (Security Agreement), 1243 (CDC Certified) and 1528 (CDC Board Resolution).

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. and the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., SBA certifies that this rule, if promulgated in final form, will not have significant economic impact on a substantial number of small entities.

The SBA certifies that this rule will not constitute a significant regulatory action for

purposes of Executive Order 12866, since the change is not likely to result in an annual effect on the economy of \$100 million or more.

SBA certifies that this rule will not impose additional reporting or record keeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

SBA Certifies that this rule will not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

SBA Certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of Executive Order 12778.

List of Subjects in 13 C.F.R. Part 108

Loan programs/business, Small businesses.

For the reasons set forth above, SBA proposes to amend Part 108 of title 13 of the Code of Federal Regulations as follows:

PART 108 - [AMENDED]

1. The authority citation for Part 108 continues to read as follows:

AUTHORITY: 15 U.S.C. 687(c), 695, 696, 698a, 697b, 697c.

2. Section 108.504-1 would be added to read as follows:

Section 108.504-1 Computer Generated Facsimile Copies of SBA Forms

For 504 Program loans, a 503 Company may use computer generated SBA application and closing forms which are exact facsimile reproductions of SBA forms generated by the 503 Company, attorneys retained by the 503 Company or by third parties with which the 503 Company has contracted; provided that a 503 Company which utilizes such computer generated

forms shall be responsible to SBA for a substantial loss resulting from inexact reproduction of any such form and provided further that SBA reserves the right not to guarantee a debenture because an inexact computer form has been submitted to SBA in support of a request for such guarantee.

All SBA loan forms, including, but not limited to the following, may be computer generated: SBA Forms 1248 (Authorization and Debenture Guaranty), 1505 (Note), 1504 (Debenture), 1506 (Servicing Agent Agreement), 1429 (Use of Proceeds), 148 (Guaranty), 928 (Mortgage), 930 (Deed of Trust), 1059 (Security Agreement), 1243 (CDC Certificate) and 1528 (CDC Board Resolution).

* * * * *

Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504).

Dated:

John Doe

Administrator

Appendix 3**Sample Final Rule
(paragraph 3-1)****SMALL BUSINESS ADMINISTRATION****13 C.F.R. PART 101****ADMINISTRATION**

AGENCY: Small Business Administration.

ACTION: The Small Business Administration (SBA) is hereby revising the dollar threshold for Approval/Denial of a Certificate of Competency (COC) for their area offices and is delegating to one individual (area director for Government Contracting) within each area office, the authority to issue or deny a COC. This action is necessary to reflect internal changes which have occurred in the Agency and the COC Program. This revision will enhance SBA's ability to process COC applications.

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: John Smith, Acting Director, Office of Industrial Assistance, (202) 205-6475.

SUPPLEMENTARY INFORMATION: This regulation establishes a uniform \$25,000,000 threshold for approval/denial of a COC by SBA's area directors. Area directors will have the sole authority to issue or deny a COC within their geographic locales. This is a departure from the graduated levels which are currently in effect. The Agency is making this change to reflect the recent reorganization of the Government Contracting Program to an area concept and also to

streamline and enhance SBA's internal processing of COC applications at the area office level.

Due to the fact that this final rule governs matters of agency organization, management and personnel and makes no substantive change to the current regulation, SBA is not required to determine if these changes constitute a major rule for purposes of Executive Order 12291, to determine if they have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq), or to do a Federalism Assessment pursuant to Executive Order 12612. SBA certifies that these changes will not impose an annual record keeping or reporting requirement on 10 or more persons under the Paperwork Reduction Act (44 U.S.C. ch. 35). Finally, for purposes of E.O. 12778, SBA certifies that this rule, is drafted, to the extent practicable, in accordance with standards set forth in Section 2 of that order.

SBA is publishing this regulation governing agency organization, procedure and practice as a final rule without opportunity for public comment pursuant to 5 U.S.C. 553 (b)(A).

List of Subjects in 13 CFR Part 101

Administration

For the reasons set forth above, Part VI of Section 101.3-2, part 101 of Title 13, Code of Federal Regulations (CFR), is revised as follows.

PART 101 - ADMINISTRATION

1. The Authority citation for Part 101 continues to read as follows:

Authority: Secs. 4 and 5, Pub. L. 85-536, 72 Stat, 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Pub. L. 85-699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11),

Pub. L. 93-386 (Aug, 23, 1974); and 5 U.S.C. 552.

2. Section 101.3-2, Part VI is revised to read as follows:

Section 101.3-2 Delegations of authority to conduct program activities in field offices.

* * * * *

Part VI - Government Contracting Program (GC)

Certificate of Competency Approval Authority

1. To approve applications for a Certificate of Competency (COC) received from small business concerns and issue COC's to those firms located within the area office's geographic jurisdiction, subject to the following monetary limitations:

Area Director/GC..... \$25,000,000

2. To deny an application for a Certificate of Competency received from small business concerns located within the area's geographic jurisdiction, subject to the following monetary limitations:

Area Director/GC..... Unlimited

* * * * *

Dated:

John Doe

Administrator

Appendix 4

**Sample General Notice
(paragraph 3-1)**

Notice

Small Business Administration

WOOD RIVER CAPITAL CORPORATION

(License #02/02-0361)

Notice of License Surrender

Notice is hereby given that Wood River Capital Corporation ("WRCC"), 667 Madison Avenue, New York, New York 20021, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). WRCC was licensed by the Small Business Administration on May 5, 1978.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on December 24, 1994, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment
Companies)

Don Christensen

Associate Administrator for Investment

Dated: _____

Appendix 5

**Sample correction document
(paragraph 3-7)**

SMALL BUSINESS ADMINISTRATION

13 CFR Part 115

[Revision 3]

RIN 3245-AB77

Surety Bond Guarantee Regulations; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: The Small Business Administration (SBA) is correcting typographical errors in the Surety Bond Guarantee Regulations which appeared in the Federal Register on Monday, May 8, 1989 (54 FR 19544).

FOR FURTHER INFORMATION CONTACT: John Smith, Director, Office of Surety Guarantees, (202) 205-0000.

SUPPLEMENTARY INFORMATION: On May 8, 1989, SBA published in the Federal Register a final rule. Typographical errors were discovered necessitating the need for a correction.

PART 115 - [CORRECTED]

Section 115.3 [Corrected]

1. On page 19547, in the third column, in Section 115.3(a), in the 20th line, "or" should read "on."

Section 115.4 [Corrected]

2. On page 19549, in the third column, in Section 115.4, in the definition for "Obligee," in the 14th line, "bond" should read "bound."
3. On the same page and in the same column and section, in the definition for "Premium," in the first line, "in" should read "an."

Section 115.6 [Corrected]

4. On page 19550, in the third column, in Section 115.6(c)(1), in the sixth line, "certification" should read "certifications."
5. On the same page, in the third column, Section 115.6(c)(3), in the next to the last line, after "contract," insert "amount."

Section 115.7 [Corrected]

6. On page 19551, in the first column, in Section 115.7(b), in the 8th line, "underwriting" should read "Underwriting" and in the 12th line, "for" should read "all."

Section 115.8 [Corrected]

7. On the same page, in the third column, in Section 115.8(a), in the fifth and sixth lines, "authorized ('authority officer')" should read "authority ('authorized officer')."

Section 115.11 [Corrected]


8. On page 19552, in the second column, in Section 115.11(b), in the 15th line, after "section," insert a closing parenthesis.

Dated: May 18, 1989

John Doe

Administrator

Appendix 6
Sample SBA Form 606
(paragraphs 3-1 and 3-2)

		CORRESPONDENCE DIGEST OR MEMORANDUM				
TO	The Administrator					
	Deputy Administrator					
<p><u>ACTION</u></p> <p>FROM: General Counsel</p> <p>SUBJECT: Final Regulation</p> <p>SUMMARY: Pub. L. 103-403, enacted on October 22, 1994, amends the Agency's microloan financing program. These final regulatory changes implement the statutory amendments. Under the final rule a native American tribal government is eligible to be an intermediary lender. The final regulation implements a pilot to authorize the Small Business Administration (SBA) to guarantee not less than 90 percent nor more than 100 percent of a loan made by third parties to intermediary lenders. The final rule authorizes SBA to provide an additional five percent grant to an intermediary which makes no less than twenty-five percent of its loans to businesses located in "economically distressed areas" which is defined as a geographic area in which no less than forty percent of the residents have an annual income that is at or below poverty level.</p> <p><u>Recommendation:</u> That you approve the final regulation for transmittal to the Office of Management and Budget for clearance and for subsequent publication in the Federal Register.</p> <p>Approved _____</p> <p>Disapproved _____</p> <p>Date _____</p> <p>John T. Spotila</p> <p>Enclosure</p>						
CONTROL NO.	SURNAME AND ORGANIZATION	PREPARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY
		EXT:		INSPECTOR GENERAL	GENERAL COUNSEL	CHIEF FINANCIAL OFFICER
	INITIALS AND DATE					
CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY
CONGRESSIONAL LEGISLATIVE AFFAIRS	ADMINISTRATION	ASSOCIATE DEPUTY ADMINISTRATOR	ASSOCIATE DEPUTY ADMINISTRATOR	EXECUTIVE SECRETARIAT	CHIEF OF STAFF	DEPUTY ADMINISTRATOR
ACTION COMPLETED: (SIGNATURE)				DATE:		

SBA FORM 606 (10-97) REF: SOP 0021 PREVIOUS EDITIONS ARE OBSOLETE

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Appendix 7

Signature and Clearance Authority for Documents (paragraph 3-2)

General Notices: The Management Board member or his/her designee with authority over the program office issuing the Notice must sign the document.

There is no required clearance process for a General Notice.

Proposed and Final Rules: The Administrator or his/her designee must sign all proposed and final rules to be published in the Federal Register.

All proposed and final rules must be cleared using an SBA Form 606, through the Office of the Executive Secretariat (see SOP 00 21).

